

NO. 5:09-HC-2138-FL

Respondents.


ORDER

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41(a)(2), which permits voluntary dismissal “upon such terms and conditions that the court deems proper.” A petitioner’s motion under Rule 41(a)(2) should not be denied absent substantial prejudice to the respondents. S.A. Andes v. Versant Corp., 788 F.2d 1033, 1036 (4th Cir. 1986).

As grounds for his request, petitioner states that respondents’ memorandum in support of their motion for summary judgment demonstrated that he is not entitled to relief. The court finds this reasoning is consistent with Rule 41(a)(2). Specifically, the court finds that respondents will not be prejudiced by petitioner’s dismissal because the matter has been resolved. Accordingly, petitioner’s motion for voluntary dismissal (DE # 25) is GRANTED and respondents’ motion for summary judgment (DE # 22) is DENIED AS MOOT.

SO ORDERED, this the 4th day of December, 2010.


LOUISE W. FLANAGAN
Chief United States District Judge